

REMARKS

This Amendment is responsive to the Final Office Action dated June 29, 2007. Applicant has amended claims 33 and 34. Claims 1-39 are pending.

Claim Rejection Under 35 U.S.C. § 101

In the final Office Action, the Examiner rejected claims 33 and 34 under 35 U.S.C. 101 on that basis that the claimed invention is not supported by either an asserted utility or a well established utility. Applicant continues to be confused about the basis for the rejection, and respectfully traverses it.

To expedite prosecution toward allowance, however, Applicant has amended claims 33 and 34 to recite processor-executable instructions, as suggested by the Examiner. In addition, Applicant has amended claims 33 and 34 to specify a computer-readable storage medium comprising the processor-executable instructions.

Applicant respectfully submits that claims 33 and 34 satisfy all requirements of section 101, and request withdrawal of the rejection. Moreover, Applicants respectfully request entry of the amendment of claims 33 and 34. Entry of the amendment would require no further search or consideration of any new issues, and would reduce the number of issues on appeal.

Claim Rejection Under 35 U.S.C. § 103

In the Final Office Action, the Examiner rejected claims 1-2, 4-11, 14, 16, 20-21, 23-25, 33, 37 and 39 under 35 U.S.C. 103(a) as being unpatentable over Lynk (EP 321,672) in view of Stevens (GB 2,336,975); rejected claims 3, 12, 15, 17-19, 22, 26, 28-32, 34-36 and 38 under 35 U.S.C. 103(a) as being unpatentable over Lynk in view of Stevens and further in view of Velius (US 5,594,784); rejected claim 13 under 35 U.S.C. 103(a) as being unpatentable over Lynk in view of Stevens and further in view of Skemer (US 2007/0005954); and rejected claim 27 under 35 U.S.C. 103(a) as being unpatentable over Lynk in view of Stevens and Velius and further in view of Skemer.

Applicant respectfully traverses the rejections. The applied references fail to disclose or suggest the inventions defined by Applicant's claims, and provide no teaching that would have suggested the desirability of modification to arrive at the claimed invention.

Applicant maintains that any rejections in view of Lynk and Stevens are improper for substantially the reasons advanced in the previous Amendment filed April 12, 2007. In the interest of brevity and conciseness, however, the following remarks generally focus on the Examiner's remarks concerning Applicant's arguments, and the newly cited Velius and Skemer references. However, the previous remarks submitted with the Amendment of April 12, 2007 are incorporated herein by reference and considered to be fully applicable to the final Office Action.

Examiner's Response to Applicant's Arguments

Applicant appreciates the Examiner's efforts to clarify the interpretation of the prior art references and claim limitations, as relied upon in the final rejection. Set forth below are remarks addressing the points raised by the Examiner.

The Examiner referred to Applicant's argument that Lynk does not teach transmitting or receiving audio with an access request and terminating the audio transmission in the event the access request is denied. In response, the Examiner clarified the Examiner's interpretation of the term "transmission." In doing so, however, the Examiner seems to have given the term an unreasonably broad and incorrect meaning.

In particular, the Examiner stated that "audio can be transmitted to anywhere in the system/network, the audio can be transmitted from the user to the mobile device and further to a storage area within the device." The Examiner further stated that the claim language does not indicate "from where or to where the audio is coming/going, therefore, it is open to a broad interpretation."

Applicant respectfully disagrees with the Examiner's interpretation of "transmitted." In the context of Applicant's claimed invention, simply storing locally obtained audio in a mobile device does not correspond to transmitting the audio in a point-to-multipoint communication system. For example, storage of audio in a mobile device, per Lynk, does not require any transmission of the audio.

Various claims specifically recite transmitting a request for access to a broadcast link in a point-to-multipoint communication system, and transmitting audio with the access request. The storing of locally obtained audio in a mobile device does not satisfy these requirements of Applicant's claims.

Moreover, in Lynk, such audio would not be transmitted with an access request, as required by some of Applicant's claims (e.g., claim 1), as an access request is not stored in the Lynk device. This realization further highlights the error in interpreting transmitting as simply locally storing audio in a mobile device.

Likewise, other claims (e.g., claim 12) require receiving a request for access and receiving audio before transmission of an indication that the access request is granted or denied. Clearly, a device that simply buffers audio locally, would not receive both an access request and audio. This point further demonstrates the inapplicability of the interpretation applied by the Examiner.

In the response to Applicant's arguments, the Examiner also clarified that the Lynk reference was not relied upon to satisfy the limitation of "terminating the audio transmission in the event the access request is denied," as set forth in some claims (e.g., claim 1). Instead, the Examiner noted that Stevens describes refusing to connect a call, and reasoned that all transmission is stopped when the call connection is refused.

As previously explained by Applicants, however, there is nothing in Stevens that would have suggested terminating an audio transmission in the event an access request is denied. Instead, Stevens simply refers to storing an access request or refusing to connect a call. In each case, there is no termination of an existing audio transmission.

The Examiner reasoned that it would be a waste of resources for any system to keep sending information when access to a communication has been denied. Yet, in Stevens, there is no existing audio transmission to terminate, and hence no waste. Refusing to connect a call is not comparable to terminating an audio transmission in the event an access request is denied, as required by various claims.

When a conventional system refuses to connect a call, there is no audio transmitted. Audio is only transmitted after an access request is granted. If resources are not available, an access request is denied. In this case, there is simply no audio transmission to terminate. Hence, when Stevens describes refusing to connect a call, Stevens is not referring to termination of an existing audio transmission but rather failure to initiate such an audio transmission in the first place.

The Examiner maintained that Stevens describes sending audio with an access request, as required by some of Applicant's claims (e.g., claim 1). In particular, the Examiner stated that "[t]here is no point in sending audio without having an access request that will ultimately send the audio to another mobile device user." The Examiner further stated that "[b]oth an access request and audio are sent to the base station." In Stevens, however, audio is sent if a communication path is available for at least some mobile radio units.

As described previously, according to Stevens, for a group call, paths to some mobile radio units may be available while paths to other mobile radio units may not be available. Instead of refusing to connect a call to all units, the Stevens system proceeds with transmission of a call to available mobile radio units and stores the call contents for unavailable mobile radio units. Thus, for unavailable target mobile units, the call contents are stored as a message for transmission at a later time when communication paths to those target mobile radio units become available. In each case, the audio is not sent with such an access request. Rather, in Stevens, transmission or storage is dependent on the grant or denial of an access request.

So, while the Examiner is correct that, in Stevens, audio is stored for later transmission to mobile radio units when paths become available, the audio in Stevens simply is not sent with an access request. The Examiner's point that "[t]here would not be a connection if a request for access is not submitted and granted" is correct. However, this does not mean that the audio must be sent with the access request. Rather, in the Stevens system, an access request is granted before audio is sent.

In summary, the Examiner's remarks in reply to Applicants' arguments, while informative, continue to rely on misinterpretation of the claims and the teachings of the Lynk and Stevens references. Applicant maintains that all of the rejections based on Lynk and Stevens are improper and should be withdrawn.

Rejections in view of Velius

The various rejections under section 103 in view of Lynk and Stevens are improper for reasons stated above and in the previous Amendment. In addition, Velius provides no teaching sufficient to overcome the deficiencies in the Lynk and Stevens references with respect to claims 3, 12, 15, 17-19, 22, 26, 27-32, 34-36 and 38.

The Examiner stated that “it is implicit in the prior art of record where audio is sent before an access request is accepted or denied,” but cited the new reference Velius for an allegedly explicit teaching in this regard. Applicant disagrees with the Examiner’s interpretation of Velius, the Examiner’s conclusion that it would have been obvious to modify the Lynk/Stevens system in view of Velius, and the notion that such modification would have resulted in the claimed invention.

With respect to claim 3, as an example, Velius provides no teaching that would have suggested modification of Lynk and/or Stevens to transmit a request for access to a broadcast link in a point-to-multipoint communication system, transmit audio with the access request before receiving an acknowledgement that the access request is granted and before receiving an acknowledgement that the access request is denied, and terminate the audio transmission in the event the access request is denied.

Similarly, as another example, Velius would not have suggested modification of Lynk/Stevens to receive a request for access to a broadcast link in a point-to-multipoint communication system, receive audio before transmission of an indication that the access request is granted and before transmission of an indication that the access request is denied, and transmit the audio via the broadcast link in the event the access request is granted, as set forth in claim 12.

Velius makes no mention of a point-to-multipoint communication system, nor the notion of requesting access to a broadcast link in a point-to-multipoint communication system. Moreover, an access request for a broadcast is not even relevant in the Velius system. In the passages cited by the Examiner, Velius merely describes initiating a call with a voice utterance, and determining whether callers are authorized to make a call.

Neither the passages cited by the Examiner, nor any other teaching in Velius, would have suggested modification of Lynk and Stevens to transmit audio with an access request before receiving an acknowledgement that the access request is granted or denied. At column 7, lines 10-16, for example, Velius states that a caller utters a call recipient’s name or a series of digits to initiate a call. At column 8, lines 5-10, Velius describes a caller authorization process in which caller voices may be analyzed (by “voice-print” matching) to determine whether to grant or deny access to the telephony system.

In the first passage (column 7, lines 10-16), Velius describes initiating a call to a particular recipient. There is no concept of a point-to-multipoint network in the Velius reference, nor any appreciation of the need to make a request for access to a broadcast link in such a network.

Likewise, in the second passage (column 8, lines 10-16), voice-print matching is performed to determine whether a user is authorized to use the telephony system for communication, not to control access to a broadcast link. Velius provides no teaching that would have suggested transmitting audio before receiving an acknowledgement that a request for access to a broadcast link is granted or denied.

Velius provides no teaching that would have suggested any apparent reason to modify the Lynk/Stevens systems to conform to the requirements of Applicant's claims. Velius does not contemplate access to a broadcast link in a point-to-multipoint network. Therefore, Velius also does not describe grant or denial of a request for access to a point-to-multipoint network. Rather, Velius simply describes voice-based initiation of calls. Nor does Velius provide any teaching that would have suggested the applicability and desirability of such a feature in a point-to-multipoint network as described by Lynk/Stevens.

In view of the shortcomings evident in Velius, one of ordinary skill in the art would have found no teaching that would have suggested the desirability of modification of Lynk/Stevens to arrive at the claimed invention. Therefore, Applicants respectfully request withdrawal of the rejections under section 103, at least to the extent they rely on Lynk, Stevens and Velius.

Rejections in view of Skemer

The various rejections under section 103 in view of Lynk and Stevens are improper for reasons stated above and in the previous Amendment. In addition, Skemer provides no teaching sufficient to overcome the deficiencies in the Lynk and Stevens references with respect to claims 13 and 27.

The Examiner stated that "it is implicit in the prior art of record where of discarding of audio in the event of an access request being denied," but cited the new Skemer reference for an explicit teaching in this regard. Applicant disagrees with the Examiner's interpretation of Skemer, the Examiner's conclusion that it would have been obvious to modify the Lynk/Stevens

system in view of Skemer, and the notion that such modification would have resulted in the claimed invention.

With respect to claim 13, as an example, Velius provides no teaching that would have suggested modification of Lynk and/or Stevens to receive a request for access to a broadcast link in a point-to-multipoint communication system, receive audio before transmission of an indication that the access request is granted and before transmission of an indication that the access request is denied, wherein the audio includes speech, transmit the audio via the broadcast link in the event the access request is granted, and discard audio in the event an access request is denied.

Whether Skemer describes discarding packets or not, this reference fails to suggest discarding audio that has been received before transmission of an indication that an access request has been granted or denied in a point-to-multipoint network. It would not have been obvious to modify Lynk/Stevens in this regard, as Lynk and Stevens do not even describe receiving audio before transmission of an access request grant or denial.

In view of the shortcomings evident in Skemer, one of ordinary skill in the art would have found no teaching that would have suggested the desirability of modification of Lynk/Stevens and/or Velius to arrive at the claimed invention. Therefore, Applicants respectfully request withdrawal of the rejections under section 103, at least to the extent they rely on Lynk, Stevens, and Skemer, or Lynk, Stevens, Velius and Skemer.

Discrepancies in Rejections

Applicant notes certain discrepancies in the rejections. As an example, the Examiner rejected claim 12 in view of Lynk, Stevens and Velius. However, the Examiner rejected claims 14 and 16, which depend on claim 12 and include all of its limitations, in view of Lynk and Stevens alone. Similar discrepancies apply to some other claims. Applicant respectfully request that the Examiner clarify the grounds of rejection in such instances, and thanks the Examiner in advance for her efforts in this regard.

CONCLUSION

All claims in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 17-0026. The Examiner is invited to telephone the below-signed attorney to discuss this application.

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